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5 UNITED STATES DISTRICT COURT
6 EASTERN DISTRICT OF WASHINGTON

7 BRUCE J. KIESSLING,
8 Plaintiff / Counter-Defendant,
9 v.
10 JAMES M. SIMMONS, individually,
11 and the martial community comprised
12 of JAMES M. SIMMONS and VICKI
13 L. SIMMONS,
14 Defendants / Counter-Claimants.

NO: 13-CV-0037-TOR
ORDER GRANTING STIPULATED
MOTION FOR ENTRY OF
JUDGMENT AND DISMISSAL

14 BEFORE THE COURT is the parties' Third Stipulated Motion for Entry of
15 Judgment (ECF No. 19). This matter was submitted for consideration without oral
16 argument on an expedited basis. The Court has reviewed the motion and is fully
17 informed.

18 The parties have stipulated to (1) entry of judgment against Defendant James
19 M. Simmons individually, and against the marital community of James M.
20 Simmons and Chris Simmons, but not against Chris Simmons separately, pursuant

1 to Rule 58(d); (2) dismissal of Plaintiff's claims against Defendant Vicki L.
2 Simmons without prejudice pursuant to Rule 41(a)(1)(A)(ii); and (3) dismissal of
3 Defendants' counterclaims against Plaintiff with prejudice pursuant to Rule
4 41(a)(1)(A)(ii).

5 **IT IS HEREBY ORDERED:**

6 The parties' Stipulated Motion for Entry of Judgment (ECF No. 19) and
7 Motion to Expedite (ECF No. 11) are **GRANTED**. Pursuant to the parties'
8 stipulations, the Court orders as follows:

- 9 1. Defendant James M. Simmons is liable for breach of the Simmons Settlement
10 Note, dated May 3, 2010, as alleged in the Complaint (ECF No. 1 at 5-6).
- 11 2. Judgment is entered that Defendant James M. Simmons, individually, and the
12 marital community of James M. Simmons and Chris Simmons, but not
13 against Chris Simmons separately, owes Plaintiff the following amounts:
 - 14 a. Principal in the amount of \$240,594.22;
 - 15 b. Interest through December 31, 2012 in the amount of \$1,021.70; and
 - 16 c. Interest after December 31, 2012, including prior to judgment,
17 through judgment, and post-judgment, at the simple interest rate of
18 5% (\$32.96 per diem).
- 19 3. Plaintiff's claims against Defendant Vicki L. Simmons are **DISMISSED**
20 without prejudice.

1 4. Defendants' counterclaims against Plaintiff for breach of contract,
2 intentional misrepresentation, and negligent misrepresentation (ECF No. 4)
3 are **DISMISSED** with prejudice.

4 5. The parties shall bear their own costs and attorney's fees.

5 The District Court Executive is hereby directed to enter this Order, enter
6 **JUDGMENT** for Plaintiff and against Defendant James M. Simmons, and against
7 the marital community of James M. Simmons and Chris Simmons, but not against
8 Chris Simmons separately, as described above, provide copies to counsel, and
9 **CLOSE** the file.

10 **DATED** June 12, 2013.



11 A handwritten signature in blue ink that reads "Thomas O. Rice".
12 THOMAS O. RICE
13 United States District Judge